

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DERRY KRAGER,

2:10-CV-1308 JCM (PAL)

Plaintiff,

V.

PILOT/FLYING J, INC., et al.,

#### Defendants.

## ORDER

15 Presently before the court is defendant Pilot/Flying J, Inc.'s motion to reconsider. (Doc.  
16 #37). Plaintiff Derry Krager filed an opposition (doc. #38), to which defendant filed a reply (doc.  
17 #40). Also before the court is plaintiff's counter motion to authenticate. (Doc. #39).

18 The court previously denied defendant's motion for summary judgment, finding that  
19 defendant had not authenticated its supporting evidence pursuant to *Orr v. Bank of America*, 285  
20 F.3d 764, 773 (9th Cir. 2002). (Doc. #36). Defendant now moves the court to reconsider this order,  
21 stating that the authentication issues were a mere oversight. (Doc. #37). Defendant attached the  
22 necessary certification and verification pages to the motion to reconsider. (Doc. #37, Exs. A, B, and  
23 C).

24 Plaintiff opposes the motion for reconsideration, arguing that the court did not abuse its  
25 discretion by denying the motion for summary judgment. (Doc. #38). Therefore, plaintiff states that  
26 the court must deny the motion for reconsideration. Alternatively, if the court grants the motion for  
27 reconsideration, plaintiff moves for an opportunity to authenticate the evidence it submitted in its

1 opposition to the motion for summary judgment. (Doc. #39).

2 This court has “inherent power” to reconsider an order over which it maintains jurisdiction.

3 See *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 887 (9th Cir. 2001);

4 see also *Marconnie Wireless Tel. Co. v. United States*, 320 U.S. 1, 47 (1943); FED. R. CIV. P. 60.

5 While the court has inherent power to reconsider an order over which it maintains  
6 jurisdiction, the court declines to reconsider its previous order in this case. *Santa Monica Baykeeper*,  
7 254 F.3d at 887. The court finds that even if the court permits defendant to authenticate the evidence  
8 in its motion for summary judgment, the motion would not demonstrate that there is no genuine issue  
9 of material fact. *Bagdadi v. Nazar*, 84 F.3d 1194, 1197 (9th Cir. 1996); FED. R. CIV. P. 56(c). In this  
10 case, many of the material facts are disputed by the parties, and summary judgment is not  
11 appropriate.

12 Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Pilot/Flying J,  
14 Inc.’s motion to reconsider (doc. #37) be, and the same hereby is, DENIED.

15 IT IS FURTHER ORDERED that plaintiff Derry Krager’s counter motion to authenticate  
16 evidence (doc. #39) be, and the same hereby is, DENIED.

17 DATED August 2, 2012.

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20 UNITED STATES DISTRICT JUDGE

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